

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8:07CR441
vs.)	
)	PRELIMINARY ORDER
JEFFREY A. SMOLINSKI,)	OF FORFEITURE
)	
Defendant.)	

NOW ON THIS 27 th day of August, 2008, this matter comes on before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture. The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. In Count II of said Information filed in this case, the United States seeks forfeiture of a Dell Inspiron, 4150 laptop computer, serial number 7X4N921, pursuant to 18 U.S.C., § 2253, on the basis it was used or was intended to be used in any manner to promote the commission of the aforementioned violation of 18 U.S.C. §2252A(a)(2), charged in Count I of the Information.

2. The Defendant has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts I and II of said Information. Count I of said Information charges the Defendant with receipt and distribution of child pornography, a violation of 18 U.S.C. § 225A(a)(2). Count II of said Information charges the Defendant with using the personal property described above in paragraph 1., above, in any manner to promote the commission of the aforementioned violation of 18 U.S.C. §2252A(a)(2).

3. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject property, and the United States should be entitled to possession of said property, pursuant to 18 U.S.C., § 2253.

4. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count II of the Information and the Defendant's plea of guilty, the United States is hereby authorized to the Dell Inspiron, 4150 laptop computer, serial number 7X4N921.

C. Defendant's interest in said property is hereby forfeited to the United States of America for disposition in accordance with the law, subject to the provisions of 18 U.S.C., § 2253.

D. All of the aforementioned forfeited property is to be held by the United States of America in its secure custody and control.

E. Pursuant to 18 U.S.C., § 2253, the United States forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, in the county where the subject properties are situated, notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited property must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the property, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject property and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 18 U.S.C., § 2253, in which all interests will be addressed.

ORDERED this 27th day of August, 2008.

BY THE COURT:

/s Joseph F. Bataillon

JOSEPH F. BATAILLON
Chief United States District Court Judge